

JOURNAL OF THE SENATE

EIGHTY-EIGHTH SESSION

TWENTY-SIXTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Wednesday, February 20, 2013

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Pastor Dan Bader, followed by the Pledge of Allegiance led by Senate page Megan Rodgers.

Roll Call: All members present except Sens. Krebs and Van Gerpen who were excused.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the twenty-fifth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Corey Brown, Chair

Which motion prevailed.

HONORED GUESTS

The President introduced Elsie Fortune, the current South Dakota High School Rodeo Queen and Breakaway Champion from Wall, to the body.

COMMUNICATIONS AND PETITIONS

February 19, 2013

Mr. President and Members of the Senate:

I have the honor to inform you that on February 19, 2013, I approved Senate Bills 48, 49, 53, and 57, and the same have been deposited in the office of the Secretary of State.

Respectfully submitted,
Dennis Daugaard
Governor

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that SB 8, 9, 126, and 127 were delivered to his Excellency, the Governor, for his approval at 9:20 a.m., February 20, 2013.

Respectfully submitted,
Corey Brown, Chair

Also MR. PRESIDENT:

The Committee on Local Government respectfully reports that it has had under consideration HB 1079 and 1101 and returns the same with the recommendation that said bills do pass.

Also MR. PRESIDENT:

The Committee on Local Government respectfully reports that it has had under consideration HB 1076, 1078, 1099, and 1107 and returns the same with the recommendation that said bills do pass and be placed on the consent calendar.

Respectfully submitted,
Mark Kirkeby, Chair

1 Also MR. PRESIDENT:

2 The Committee on Transportation respectfully reports that it has had under consideration
3 HB 1118 and returns the same with the recommendation that said bill do pass.

4 Also MR. PRESIDENT:

5 The Committee on Transportation respectfully reports that it has had under consideration
6 HB 1117 and returns the same with the recommendation that said bill do pass and be placed on
7 the consent calendar.

8 Respectfully submitted,
9 Mike Vehle, Chair

10 Also MR. PRESIDENT:

11 The Committee on State Affairs respectfully reports that it has had under consideration
12 HB 1030 and 1180 and returns the same with the recommendation that said bills do pass.

13 Also MR. PRESIDENT:

14 The Committee on State Affairs respectfully reports that it has had under consideration
15 HB 1067 and 1084 and returns the same with the recommendation that said bills do pass and
16 be placed on the consent calendar.

17 Also MR. PRESIDENT:

18 The Committee on State Affairs respectfully reports that it has had under consideration
19 HB 1135 which was deferred to the 41st Legislative Day.

20 Respectfully submitted,
21 Larry Rhoden, Chair

22 Also MR. PRESIDENT:

23 The Committee on Taxation respectfully reports that it has had under consideration
24 HB 1239 and returns the same with the recommendation that said bill do pass.

1 Also MR. PRESIDENT:

2 The Committee on Taxation respectfully reports that it has had under consideration
3 HB 1039 and returns the same with the recommendation that said bill do pass and be placed on
4 the consent calendar.

5 Respectfully submitted,
6 Ryan Maher, Chair

7 **MESSAGES FROM THE HOUSE**

8 MR. PRESIDENT:

9 I have the honor to inform your honorable body that the House has concurred in Senate
10 amendments to HB 1106.

11 Also MR. PRESIDENT:

12 I have the honor to return herewith SCR 1 in which the House has concurred.

13 Also MR. PRESIDENT:

14 I have the honor to transmit herewith HB 1187, 1191, 1194, 1217, 1234, and 1250 which
15 have passed the House and your favorable consideration is respectfully requested.

16 Respectfully,
17 Arlene Kvislen, Chief Clerk

18 **MOTIONS AND RESOLUTIONS**

19 SCR 2: A CONCURRENT RESOLUTION, Expressing support for civic education in the
20 public schools in South Dakota, and recognizing March 6, 2013, as Civic Education Day at the
21 State Capitol.

22 Was read the second time.

23 Sen. Kirkeby moved that SCR 2 as found on page 444 of the Senate Journal be adopted.

24 The question being on Sen. Kirkeby's motion that SCR 2 be adopted.

1 And the roll being called:

2 Yeas 32, Nays 0, Excused 3, Absent 0

3 Yeas:

4 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
5 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Monroe; Novstrup
6 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rave; Rhoden; Soholt; Sutton; Tidemann;
7 Tieszen; Vehle; Welke; White

8 Excused:

9 Krebs; Rampelberg; Van Gerpen

10 So the motion having received an affirmative vote of a majority of the members-elect, the
11 President declared the motion carried and SCR 2 was adopted.

12 SCR 3 Introduced by: Senators Lucas, Adelstein, Bradford, Brown, Buhl, Frerichs, Jones,
13 Kirkeby, Olson (Russell), Peters, Rave, Sutton, Tidemann, Tieszen, and Welke and
14 Representatives Cronin, Bolin, Carson, Ecklund, Feinstein, Gibson, Gosch, Hansen, Hawks,
15 Hawley, Hunhoff (Bernie), Lust, Novstrup (David), Parsley, Qualm, Rozum, Schaefer,
16 Schoenfish, Sly, Soli, Solum, Tyler, Verchio, and Wick

17 A CONCURRENT RESOLUTION, Urging the members of the South Dakota Congressional
18 delegation to sponsor and support legislation granting states the authority to require sellers,
19 regardless of nexus, to collect sales and use taxes if certain tax simplification and
20 streamlining thresholds are met by the states.

21 WHEREAS, the 1967 Bellas Hess and the 1992 Quill Supreme Court decisions denied states
22 the authority to require the collection of sales and use taxes by businesses that have no physical
23 presence in the taxing state; and

24 WHEREAS, the ability of consumers to make purchases from remote sellers that have no
25 physical presence has become significantly more accessible via the internet as evident by the
26 \$1.5 billion dollars spent online during the 24-hour period on Cyber Monday. The sales tax base
27 is eroding as consumers are adopting purchasing habits that vary substantially from ten years
28 ago; and

29 WHEREAS, the constraints imposed by the Supreme Court's decisions threaten the future
30 viability of the sales tax as a revenue source for state and local governments in this changing
31 market for consumer goods and services; and

32 WHEREAS, the federal government continues to shift program and financial responsibilities
33 to the states, but the inaction of Congress to permit states to require sales and use tax collection
34 on remote sales limits the states' ability to raise revenues for the funding of such programs from
35 one of the major state revenue sources; and

1 WHEREAS, if Congress were to act on this matter, it would provide some fiscal relief for
2 the states without costing the federal government a single cent or otherwise affect the federal
3 budget; and

4 WHEREAS, the Streamlined Sales and Use Tax Agreement (Agreement) provided the states
5 with one viable blueprint to create a simplified and more uniform sales and use tax collection
6 system. The states and the business community have worked for over ten years to simplify state
7 and local sales and use tax systems by establishing common definitions, sourcing rules, and
8 other factors to provide a streamlined system for the twenty-first century; and

9 WHEREAS, small businesses that have less than one million dollars in gross annual receipts
10 are exempt from the provisions of the Agreement; and

11 WHEREAS, the Legislature of South Dakota and our colleagues in the other states have
12 shown the resolve to acknowledge the complexities of the current sales and use tax collection
13 system, have worked with the business community to formulate a truly simplified and
14 streamlined collection system, and have shown the political will to enact the necessary changes
15 to make the streamlined collection system the law; and

16 WHEREAS, by January 1, 2013, twenty-three states, Arkansas, Georgia, Indiana, Iowa,
17 Kansas, Kentucky, Michigan, Minnesota, Nebraska, Nevada, New Jersey, North Carolina, North
18 Dakota, Oklahoma, Rhode Island, South Dakota, Utah, Vermont, West Virginia, Washington,
19 Wisconsin, and Wyoming, have enacted legislation to bring their states' sales and use tax
20 statutes into compliance with the Agreement; and

21 WHEREAS, the Center for Business and Economic Research at the University of Tennessee
22 has estimated that the states and local governments may lose as much as \$14.8 billion in fiscal
23 year 2012 because they were not able to collect taxes on remote sales, a figure that increases to
24 \$23 billion if phone and mail order sales are included according to the National Conference of
25 State Legislatures, and the Center has estimated that South Dakota will lose as much as \$38.8
26 million in fiscal year 2012, a figure that increases to \$60.8 million if phone and mail order sales
27 are included; and

28 WHEREAS, Congress has the capacity to provide a comprehensive national solution to the
29 sales tax collection by permitting states that are unable to join the Agreement to enact sales and
30 use tax simplifications and thereby granting such states the authority to require collection of
31 taxes on remote sales, thereby removing the potential for competitive advantage among the
32 states; and

33 WHEREAS, Congress has the opportunity to create an environment for fair market
34 competition between traditional and online only retailers which will enable South Dakota
35 businesses to sustain and increase the fifty-two thousand retail jobs throughout the state; and

36 WHEREAS, until Congress and the President enact legislation to permit states to require
37 collection of tax on remote sales, participation by remote sellers will only ever be voluntary
38 making it unlikely that the states will close the sales and use tax gap between what is owed on
39 remote transactions and what is collected; and

1 WHEREAS, the Marketplace Fairness Act of 2013 has been introduced in the United States
2 Senate, and grants those states that comply with the provisions of the Act the authority to require
3 sellers, regardless of nexus, to collect the states' sales and use taxes:

4 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Eighty-
5 seventh Legislature of the State of South Dakota, the Senate concurring therein, that the
6 Legislature of South Dakota calls upon the members of our congressional delegation, Senators
7 Tim Johnson and John Thune, and Representative Kristi Noem to support legislation addressing
8 market fairness and equity; and

9 BE IT FURTHER RESOLVED, that the Legislature of South Dakota urges President Barack
10 Obama to sign into law legislation granting the states authority to collect sales and use tax on
11 remote sales, upon its passage by Congress.

12 Was read the first time, the President waived the referral to committee, and placed SCR 3
13 on the calendar of Thursday, February 21, the 27th legislative day.

14 Sen. Olson moved that SB 232 be placed to follow SB 28 on today's calendar.

15 Which motion prevailed.

16 **CONSIDERATION OF REPORTS OF COMMITTEES**

17 Sen. Olson moved that the reports of the Standing Committees on

18 Appropriations on SB 15 as found on page 451 of the Senate Journal; also

19 Appropriations on SB 28 as found on page 453 of the Senate Journal; also

20 Appropriations on SB 76 as found on page 460 of the Senate Journal; also

21 Appropriations on SB 155 as found on page 461 of the Senate Journal; also

22 Appropriations on SB 176 as found on page 461 of the Senate Journal; also

23 Appropriations on SB 208 as found on page 462 of the Senate Journal; also

24 Appropriations on SB 218 as found on page 462 of the Senate Journal; also

25 Appropriations on SB 229 as found on page 464 of the Senate Journal; also

26 Appropriations on SB 233 as found on page 464 of the Senate Journal; also

1 Appropriations on SB 236 as found on page 464 of the Senate Journal; also
2 Appropriations on SB 163 as found on page 465 of the Senate Journal be adopted.
3 Which motion prevailed.

4 Sen. Peters moved that the words "without recommendation" be stricken from the report
5 of the Committee on Appropriations on SB 163, that the words "do pass" be inserted, and that
6 the bill be placed on today's calendar.

7 The question being on Sen. Peters' motion that the words "without recommendation" be
8 stricken from the report of the Committee on Appropriations on SB 163, that the words "do
9 pass" be inserted, and that the bill be placed on today's calendar.

10 And the roll being called:

11 Yeas 11, Nays 22, Excused 2, Absent 0

12 Yeas:

13 Adelstein; Frerichs; Heineman (Phyllis); Jensen; Jones; Novstrup (Al); Otten (Ernie); Peters;
14 Rave; Sutton; Welke

15 Nays:

16 Begalka; Bradford; Brown; Buhl; Ewing; Holien; Hunhoff (Jean); Johnston; Kirkeby;
17 Lederman; Lucas; Maher; Monroe; Olson (Russell); Omdahl; Rampelberg; Rhoden; Soholt;
18 Tidemann; Tieszen; Vehle; White

19 Excused:

20 Krebs; Van Gerpen

21 So the motion not having received an affirmative vote of a majority of the members-elect,
22 the President declared the motion lost.

23 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

24 HB 1187: FOR AN ACT ENTITLED, An Act to provide alternative brand inspection
25 procedures for certain rodeo livestock.

26 Was read the first time and referred to the Committee on Agriculture and Natural
27 Resources.

1 HB 1191: FOR AN ACT ENTITLED, An Act to provide for the issuance of additional
2 retail fireworks licenses.

3 Was read the first time and referred to the Committee on Commerce and Energy.

4 HB 1194: FOR AN ACT ENTITLED, An Act to revise the period during which fireworks
5 may be discharged.

6 Was read the first time and referred to the Committee on Commerce and Energy.

7 HB 1217: FOR AN ACT ENTITLED, An Act to revise and expand certain provisions
8 related to organ and tissue donation.

9 Was read the first time and referred to the Committee on State Affairs.

10 HB 1234: FOR AN ACT ENTITLED, An Act to provide a limited exception to the
11 provisions that exempt sport shooting ranges from the public nuisance laws.

12 Was read the first time and referred to the Committee on Commerce and Energy.

13 HB 1250: FOR AN ACT ENTITLED, An Act to honor veterans as certain persons who
14 performed service in reserve components.

15 Was read the first time and referred to the Committee on Appropriations.

16 **SECOND READING OF CONSENT CALENDAR ITEMS**

17 HB 1052: FOR AN ACT ENTITLED, An Act to revise certain requirements for third party
18 administrators and pharmacy benefits managers.

19 Was read the second time.

20 The question being "Shall HB 1052 pass as amended?"

21 And the roll being called:

22 Yeas 33, Nays 0, Excused 2, Absent 0

1 Yeas:

2 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
3 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Monroe; Novstrup
4 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rave; Rhoden; Soholt;
5 Sutton; Tidemann; Tieszen; Vehle; Welke; White

6 Excused:

7 Krebs; Van Gerpen

8 So the bill having received an affirmative vote of a majority of the members-elect, the
9 President declared the bill passed and the title was agreed to.

10 HB 1157: FOR AN ACT ENTITLED, An Act to increase certain penalties regarding the
11 sale of petroleum products.

12 Was read the second time.

13 The question being "Shall HB 1157 pass as amended?"

14 And the roll being called:

15 Yeas 33, Nays 0, Excused 2, Absent 0

16 Yeas:

17 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
18 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Monroe; Novstrup
19 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rave; Rhoden; Soholt;
20 Sutton; Tidemann; Tieszen; Vehle; Welke; White

21 Excused:

22 Krebs; Van Gerpen

23 So the bill having received an affirmative vote of a majority of the members-elect, the
24 President declared the bill passed and the title was agreed to.

25 HB 1006: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the
26 termination of certain mineral interests.

27 Was read the second time.

28 The question being "Shall HB 1006 pass as amended?"

1 And the roll being called:

2 Yeas 33, Nays 0, Excused 2, Absent 0

3 Yeas:

4 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
5 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Monroe; Novstrup
6 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;
7 Sutton; Tidemann; Tieszen; Vehle; Welke; White

8 Excused:

9 Krebs; Van Gerpen

10 So the bill having received an affirmative vote of a majority of the members-elect, the
11 President declared the bill passed and the title was agreed to.

12 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

13 SB 159: FOR AN ACT ENTITLED, An Act to revise the state aid to general education
14 formula by including an adjustment for students with limited English proficiency.

15 Was read the second time.

16 159ca

17 Sen. White moved that SB 159 be amended as follows:

18 On page 3, line 14, of the printed bill, delete "0.25" and insert "0.01".

19 Which motion prevailed.

20 The question being "Shall SB 159 pass as amended?"

21 And the roll being called:

22 Yeas 31, Nays 2, Excused 2, Absent 0

23 Yeas:

24 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Hunhoff
25 (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Monroe; Novstrup (Al);
26 Olson (Russell); Omdahl; Otten (Ernie); Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann;
27 Tieszen; Vehle; Welke; White

1 Nays:
2 Holien; Peters

3 Excused:
4 Krebs; Van Gerpen

5 So the bill having received an affirmative vote of a majority of the members-elect, the
6 President declared the bill passed and the title was agreed to.

7 SB 238: FOR AN ACT ENTITLED, An Act to appropriate money to the animal damage
8 control fund for predator control services and to declare an emergency.

9 Was read the second time.

10 238fa

11 Sen. Olson moved that SB 238 be amended as follows:

12 On page 1, line 4, of the printed bill, delete "three hundred" and insert "one dollar (\$1),".

13 On page 1, line 5, delete "thousand dollars (\$300,000),".

14 Which motion prevailed.

15 The question being "Shall SB 238 pass as amended?"

16 And the roll being called:

17 Yeas 25, Nays 8, Excused 2, Absent 0

18 Yeas:
19 Adelstein; Begalka; Brown; Ewing; Frerichs; Heineman (Phyllis); Hunhoff (Jean); Jensen;
20 Jones; Kirkeby; Lederman; Maher; Monroe; Novstrup (Al); Olson (Russell); Omdahl; Otten
21 (Ernie); Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Vehle; White

22 Nays:
23 Bradford; Buhl; Holien; Johnston; Lucas; Peters; Tieszen; Welke

24 Excused:
25 Krebs; Van Gerpen

1 So the bill having received an affirmative vote of a two-thirds majority of the members-
2 elect, the President declared the bill passed and the title was agreed to.

3 SB 136: FOR AN ACT ENTITLED, An Act to revise the state aid to education formula and
4 to make an appropriation.

5 Was read the second time.

6 The question being "Shall SB 136 pass?"

7 And the roll being called:

8 Yeas 33, Nays 0, Excused 2, Absent 0

9 Yeas:

10 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
11 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Monroe; Novstrup
12 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;
13 Sutton; Tidemann; Tieszen; Vehle; Welke; White

14 Excused:

15 Krebs; Van Gerpen

16 So the bill having received an affirmative vote of a two-thirds majority of the members-
17 elect, the President declared the bill passed and the title was agreed to.

18 SB 154: FOR AN ACT ENTITLED, An Act to revise the maximum weight allowed on
19 certain wide-based super single tires.

20 Was read the second time.

21 The question being "Shall SB 154 pass as amended?"

22 And the roll being called:

23 Yeas 32, Nays 1, Excused 2, Absent 0

24 Yeas:

25 Adelstein; Begalka; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff (Jean);
26 Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Monroe; Novstrup (Al); Olson
27 (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann;
28 Tieszen; Vehle; Welke; White

1 Nays:

2 Bradford

3 Excused:

4 Krebs; Van Gerpen

5 So the bill having received an affirmative vote of a majority of the members-elect, the
6 President declared the bill passed and the title was agreed to.

7 SB 130: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning
8 absentee voting.

9 Was read the second time.

10 The question being "Shall SB 130 pass as amended?"

11 And the roll being called:

12 Yeas 32, Nays 1, Excused 2, Absent 0

13 Yeas:

14 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
15 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Novstrup (Al);
16 Olson (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rave; Rhoden; Soholt; Sutton;
17 Tidemann; Tieszen; Vehle; Welke; White

18 Nays:

19 Monroe

20 Excused:

21 Krebs; Van Gerpen

22 So the bill having received an affirmative vote of a majority of the members-elect, the
23 President declared the bill passed and the title was agreed to.

24 SB 180: FOR AN ACT ENTITLED, An Act to amend certain provisions relating to the
25 publication of payroll information.

26 Was read the second time.

27 180tb

28 Sen. Novstrup moved that SB 180 be amended as follows:

On the Senate Local Government Committee engrossed bill, delete everything after the enacting clause and insert:

"Section 1. That § 6-1-10 be amended to read as follows:

6-1-10. Notwithstanding the provisions of §§ 7-18-3, 9-18-1, and 13-8-35, ~~the boards~~ each board of county commissioners, the governing board of each municipal corporation, and ~~school boards~~ each school board shall publish with the minutes of the first meeting following the beginning of the fiscal year, or within thirty days thereafter, or in the minutes of the first meeting following the completion of salary negotiations with employees for that fiscal year, or within thirty days thereafter, a complete list of all the salaries and benefits of all officers and employees and thereafter shall publish once any salary and benefits paid to any officer or employee who has been added or whose salary ~~has~~ or benefits have been increased. The governing board shall publish, in their minutes, at least monthly, a total of payroll by department. For purposes of this section, the term, benefits, means the total dollar amount paid to each employee and officer for the employer's share of Federal Insurance Contributions Act (FICA), Supplemental Security Income (SSI), retirement, any nonprofessional membership fee, and the average amount paid per employee or officer for health insurance annually."

Which motion prevailed.

The question being "Shall SB 180 pass as amended?"

And the roll being called:

Yeas 28, Nays 5, Excused 2, Absent 0

Yeas:

Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen; Johnston; Kirkeby; Lederman; Maher; Monroe; Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Tidemann; Tieszen; Vehle; White

Nays:

Frerichs; Jones; Lucas; Sutton; Welke

Excused:

Krebs; Van Gerpen

So the bill having received an affirmative vote of a majority of the members-elect, the President declared the bill passed and the title was agreed to.

SB 135: FOR AN ACT ENTITLED, An Act to establish a summer study committee to study long-term care service needs in South Dakota.

1 Was read the second time.

2 Sen. Rave moved that SB 135 be laid on the table.

3 The question being on Sen. Rave's motion that SB 135 be laid on the table.

4 And the roll being called:

5 Yeas 30, Nays 3, Excused 2, Absent 0

6 Yeas:

7 Adelstein; Begalka; Brown; Buhl; Ewing; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen;
8 Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Novstrup (Al); Olson (Russell); Omdahl;
9 Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen; Vehle;
10 Welke; White

11 Nays:

12 Bradford; Frerichs; Monroe

13 Excused:

14 Krebs; Van Gerpen

15 So the motion having received an affirmative vote of a majority of the members-elect, the
16 President declared the motion carried.

17 Sen. Olson moved that the Senate do now recess until 4:15 p.m., which motion prevailed
18 and at 3:27 p.m., the Senate recessed.

19 **RECESS**

20 The Senate reconvened at 5:30 p.m., the President presiding.

21 Sen. Olson moved that SB 28 be placed to follow SB 236 and SB 15 to follow SB 28 on
22 today's calendar.

23 Which motion prevailed.

24 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**
25 (continued)

26 SB 82: FOR AN ACT ENTITLED, An Act to provide for the nomination of candidates for
27 certain constitutional officers using political party primary elections.

1 Was read the second time.

2 82tc

3 Sen. Frerichs moved that SB 82 be amended as follows:

4 On page 2, line 19, of the Senate State Affairs Committee engrossed bill, after "lands,"
5 insert "secretary of agriculture,".

6 On page 3, after line 15, insert:

7 "Section 9. That § 1-32-3 be amended to read as follows:

8 1-32-3. Except as provided by §§ 5-17-2 and 38-1-2, the head of each principal department
9 shall be appointed by the Governor with the consent of the Senate and shall serve at the pleasure
10 of the Governor pursuant to S.D. Const., Art. IV, § 9.

11 Section 10, That § 38-1-2 be amended to read as follows:

12 38-1-2. The head of the Department of Agriculture ~~shall be known as~~ is the secretary of
13 agriculture of the State of South Dakota, and wherever the word "secretary". The term, secretary,
14 wherever it appears in this title, it shall mean the "secretary of agriculture of the State of South
15 Dakota" means the secretary of agriculture unless the context indicates otherwise. He shall be
16 appointed by the Governor pursuant to S.D. Const., Art. IV, § 9 and to § 1-32-3 The secretary
17 shall be elected as provided in this Act.

18 Section 11. That chapter 38-1 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 At the general election held in 2012 and every four years thereafter, there shall be chosen by
21 the qualified voters of the state a secretary of agriculture having the qualifications prescribed by
22 law who shall hold office for a term of four years from the first Tuesday after the first Monday
23 in January following the election and until a successor is elected and qualified.

24 Section 12. That chapter 38-1 be amended by adding thereto a NEW SECTION to read as
25 follows:

26 If a vacancy occurs in the office of secretary of agriculture by death, resignation, or
27 otherwise, the Governor shall make a temporary appointment to fill the vacancy, but the person
28 so appointed may hold the office only until the next general election and until a successor is
29 elected and qualified.

30 Section 13. That § 12-25-29 be amended to read as follows:

12-25-29. All candidates for lieutenant governor, state treasurer, attorney general, secretary of state, state auditor, secretary of agriculture, public utilities commissioner, and commissioner of school and public lands shall file a statement of financial interest with the secretary of state within fifteen days after their nominations have been certified. A violation of this section is a petty offense. An intentional violation of this section is a Class 2 misdemeanor.

Section 14. That subdivision (23) of § 12-27-1 be amended to read as follows:

(23) "Statewide office," the offices of Governor, lieutenant governor, secretary of state, attorney general, state auditor, state treasurer, secretary of agriculture, commissioner of school and public lands, and public utilities commissioner;"

Which motion lost.

The question being "Shall SB 82 pass as amended?"

And the roll being called:

Yeas 11, Nays 22, Excused 2, Absent 0

Yeas:

Adelstein; Bradford; Buhl; Frerichs; Jones; Lederman; Lucas; Maher; Sutton; Tieszen; Welke

Nays:

Begalka; Brown; Ewing; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen; Johnston; Kirkeby; Monroe; Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Tidemann; Vehle; White

Excused:

Krebs; Van Gerpen

So the bill not having received an affirmative vote of a majority of the members-elect, the President declared the bill lost.

SB 237: FOR AN ACT ENTITLED, An Act to appropriate funds for deposit into the need-based grant fund, to provide for annual funding of the need-based grant fund with a portion of the funds received from the education enhancement trust fund, and to declare an emergency.

Was read the second time.

The question being "Shall SB 237 pass as amended?"

1 And the roll being called:

2 Yeas 33, Nays 0, Excused 2, Absent 0

3 Yeas:

4 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
5 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Monroe; Novstrup
6 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;
7 Sutton; Tidemann; Tieszen; Vehle; Welke; White

8 Excused:

9 Krebs; Van Gerpen

10 So the bill having received an affirmative vote of a two-thirds majority of the members-
11 elect, the President declared the bill passed and the title was agreed to.

12 SB 207: FOR AN ACT ENTITLED, An Act to make certain legislative findings concerning
13 federal infringement on Second Amendment rights.

14 Having had its second reading was up for consideration and final passage.

15 The question being "Shall SB 207 pass?"

16 And the roll being called:

17 Yeas 29, Nays 4, Excused 2, Absent 0

18 Yeas:

19 Begalka; Brown; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen;
20 Johnston; Jones; Kirkeby; Lederman; Maher; Monroe; Novstrup (Al); Olson (Russell); Omdahl;
21 Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen; Vehle;
22 Welke; White

23 Nays:

24 Adelstein; Bradford; Buhl; Lucas

25 Excused:

26 Krebs; Van Gerpen

27 So the bill having received an affirmative vote of a majority of the members-elect, the
28 President declared the bill passed and the title was agreed to.

29 SB 51: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
30 application of the collection allowance credit for collecting the sales tax.

1 Was read the second time.

2 51fb

3 Sen. Kirkeby moved that SB 51 be amended as follows:

4 On page 2 of the printed bill, delete lines 7 to 9, inclusive.

5 Sen. Olson moved the previous question.

6 Which motion prevailed.

7 Sen. Kirkeby requested a roll call vote.

8 Which request was supported.

9 The question being on Sen. Kirkeby's motion that SB 51 be amended.

10 And the roll being called:

11 Yeas 24, Nays 9, Excused 2, Absent 0

12 Yeas:

13 Adelstein; Begalka; Buhl; Ewing; Frerichs; Holien; Hunhoff (Jean); Johnston; Jones; Kirkeby;
14 Lederman; Lucas; Monroe; Olson (Russell); Otten (Ernie); Rampelberg; Rave; Rhoden; Soholt;
15 Sutton; Tieszen; Vehle; Welke; White

16 Nays:

17 Bradford; Brown; Heineman (Phyllis); Jensen; Maher; Novstrup (Al); Omdahl; Peters; Tidemann

18 Excused:

19 Krebs; Van Gerpen

20 So the motion having received an affirmative vote of a majority of the members present,
21 the President declared the motion carried.

22 The question being "Shall SB 51 pass as amended?"

23 And the roll being called:

24 Yeas 31, Nays 2, Excused 2, Absent 0

1 Yeas:

2 Adelstein; Begalka; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff (Jean);
3 Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Monroe; Novstrup (Al); Olson
4 (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tieszen;
5 Vehle; Welke; White

6 Nays:

7 Bradford; Tidemann

8 Excused:

9 Krebs; Van Gerpen

10 So the bill having received an affirmative vote of a majority of the members-elect, the
11 President declared the bill passed and the title was agreed to.

12 SB 232: FOR AN ACT ENTITLED, An Act to limit political contributions by certain
13 political action committees.

14 Was read the second time.

15 The question being "Shall SB 232 pass?"

16 And the roll being called:

17 Yeas 26, Nays 7, Excused 2, Absent 0

18 Yeas:

19 Adelstein; Begalka; Brown; Ewing; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen;
20 Johnston; Kirkeby; Lederman; Maher; Monroe; Novstrup (Al); Olson (Russell); Omdahl; Otten
21 (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Tidemann; Tieszen; Vehle; White

22 Nays:

23 Bradford; Buhl; Frerichs; Jones; Lucas; Sutton; Welke

24 Excused:

25 Krebs; Van Gerpen

26 So the bill having received an affirmative vote of a majority of the members-elect, the
27 President declared the bill passed and the title was agreed to.

28 SB 76: FOR AN ACT ENTITLED, An Act to appropriate money to fund the education
29 service agencies.

1 Was read the second time.

2 The question being "Shall SB 76 pass as amended?"

3 And the roll being called:

4 Yeas 29, Nays 4, Excused 2, Absent 0

5 Yeas:

6 Adelstein; Begalka; Brown; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff (Jean);
7 Jensen; Johnston; Kirkeby; Lederman; Maher; Monroe; Novstrup (Al); Olson (Russell); Omdahl;
8 Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen; Vehle;
9 Welke; White

10 Nays:

11 Bradford; Buhl; Jones; Lucas

12 Excused:

13 Krebs; Van Gerpen

14 So the bill having received an affirmative vote of a two-thirds majority of the members-
15 elect, the President declared the bill passed and the title was agreed to.

16 SB 155: FOR AN ACT ENTITLED, An Act to establish a local government road
17 improvement grant fund for the purpose of serving new agricultural facilities and to make an
18 appropriation therefor.

19 Was read the second time.

20 The question being "Shall SB 155 pass as amended?"

21 And the roll being called:

22 Yeas 32, Nays 1, Excused 2, Absent 0

23 Yeas:

24 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
25 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Maher; Monroe; Novstrup (Al);
26 Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton;
27 Tidemann; Tieszen; Vehle; Welke; White

28 Nays:

29 Lucas

1 Excused:
2 Krebs; Van Gerpen

3 So the bill having received an affirmative vote of a two-thirds majority of the members-
4 elect, the President declared the bill passed and the title was agreed to.

5 SB 176: FOR AN ACT ENTITLED, An Act to appropriate money to the South Dakota
6 Board of Regents - Agricultural Experiment Station to implement a research investment
7 program.

8 Was read the second time.

9 The question being "Shall SB 176 pass as amended?"

10 And the roll being called:

11 Yeas 31, Nays 2, Excused 2, Absent 0

12 Yeas:
13 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Hunhoff
14 (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Monroe; Novstrup (Al);
15 Olson (Russell); Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann;
16 Tieszen; Vehle; Welke; White

17 Nays:
18 Holien; Omdahl

19 Excused:
20 Krebs; Van Gerpen

21 So the bill having received an affirmative vote of a two-thirds majority of the members-
22 elect, the President declared the bill passed and the title was agreed to.

23 SB 208: FOR AN ACT ENTITLED, An Act to make an appropriation to rehabilitate certain
24 state-owned rail lines.

25 Was read the second time.

26 The question being "Shall SB 208 pass as amended?"

27 And the roll being called:

28 Yeas 22, Nays 11, Excused 2, Absent 0

1 Yeas:

2 Adelstein; Begalka; Bradford; Brown; Ewing; Frerichs; Hunhoff (Jean); Kirkeby; Lederman;
3 Lucas; Maher; Novstrup (Al); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
4 Soholt; Tidemann; Tieszen; Vehle

5 Nays:

6 Buhl; Heineman (Phyllis); Holien; Jensen; Johnston; Jones; Monroe; Olson (Russell); Sutton;
7 Welke; White

8 Excused:

9 Krebs; Van Gerpen

10 So the bill not having received an affirmative vote of a two-thirds majority of the members-
11 elect, the President declared the bill lost.

12 SB 218: FOR AN ACT ENTITLED, An Act to establish a program to assist rural counties
13 to recruit attorneys.

14 Was read the second time.

15 The question being "Shall SB 218 pass as amended?"

16 And the roll being called:

17 Yeas 23, Nays 10, Excused 2, Absent 0

18 Yeas:

19 Begalka; Bradford; Brown; Buhl; Frerichs; Heineman (Phyllis); Johnston; Kirkeby; Lucas;
20 Maher; Novstrup (Al); Olson (Russell); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton;
21 Tidemann; Tieszen; Vehle; Welke; White

22 Nays:

23 Adelstein; Ewing; Holien; Hunhoff (Jean); Jensen; Jones; Lederman; Monroe; Omdahl; Otten
24 (Ernie)

25 Excused:

26 Krebs; Van Gerpen

27 So the bill not having received an affirmative vote of a two-thirds majority of the members-
28 elect, the President declared the bill lost.

29 Sen. Vehle announced his intention to reconsider the vote by which SB 218 lost.

1 SB 229: FOR AN ACT ENTITLED, An Act to make an appropriation for the purpose of
2 providing funding for career and technical education.

3 Was read the second time.

4 The question being "Shall SB 229 pass as amended?"

5 And the roll being called:

6 Yeas 33, Nays 0, Excused 2, Absent 0

7 Yeas:

8 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
9 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Monroe; Novstrup
10 (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;
11 Sutton; Tidemann; Tieszen; Vehle; Welke; White

12 Excused:

13 Krebs; Van Gerpen

14 So the bill having received an affirmative vote of a two-thirds majority of the members-
15 elect, the President declared the bill passed and the title was agreed to.

16 SB 233: FOR AN ACT ENTITLED, An Act to create the critical teaching needs scholarship
17 program and to make an appropriation to the education enhancement trust fund to provide for
18 the annual funding of the scholarships.

19 Was read the second time.

20 The question being "Shall SB 233 pass as amended?"

21 And the roll being called:

22 Yeas 29, Nays 4, Excused 2, Absent 0

23 Yeas:

24 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Hunhoff
25 (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Lucas; Maher; Novstrup (Al); Olson
26 (Russell); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen; Vehle;
27 Welke; White

28 Nays:

29 Holien; Monroe; Omdahl; Otten (Ernie)

30 Excused:

31 Krebs; Van Gerpen

1 So the bill having received an affirmative vote of a two-thirds majority of the members-
2 elect, the President declared the bill passed and the title was agreed to.

3 SB 236: FOR AN ACT ENTITLED, An Act to appropriate money to the Board of Regents
4 to fund the expansion of information systems programs and cyber security programs at Dakota
5 State University.

6 Was read the second time.

7 The question being "Shall SB 236 pass as amended?"

8 And the roll being called:

9 Yeas 32, Nays 1, Excused 2, Absent 0

10 Yeas:

11 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
12 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Lederman; Maher; Monroe; Novstrup (Al);
13 Olson (Russell); Omdahl; Otten (Ernie); Peters; Rempelberg; Rave; Rhoden; Soholt; Sutton;
14 Tidemann; Tieszen; Vehle; Welke; White

15 Nays:

16 Lucas

17 Excused:

18 Krebs; Van Gerpen

19 So the bill having received an affirmative vote of a two-thirds majority of the members-
20 elect, the President declared the bill passed and the title was agreed to.

21 Sen. Vehle moved that the Senate do now reconsider the vote by which SB 218 lost.

22 The question being on Sen. Vehle's motion to reconsider the vote by which SB 218 lost.

23 And the roll being called:

24 Yeas 20, Nays 13, Excused 2, Absent 0

25 Yeas:

26 Begalka; Bradford; Brown; Buhl; Frerichs; Heineman (Phyllis); Johnston; Kirkeby; Lederman;
27 Maher; Novstrup (Al); Olson (Russell); Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen;
28 Vehle; White

1 Nays:

2 Adelstein; Ewing; Holien; Hunhoff (Jean); Jensen; Jones; Lucas; Monroe; Omdahl; Otten
3 (Ernie); Peters; Rampelberg; Welke

4 Excused:

5 Krebs; Van Gerpen

6 So the motion having received an affirmative vote of a majority of the members-elect, the
7 President declared the motion carried and SB 218 was up for reconsideration and final passage.

8 SB 218: FOR AN ACT ENTITLED, An Act to establish a program to assist rural counties
9 to recruit attorneys.

10 Having had its second reading was up for reconsideration and final passage.

11 The question being "Shall SB 218 pass as amended?"

12 And the roll being called:

13 Yeas 22, Nays 11, Excused 2, Absent 0

14 Yeas:

15 Begalka; Bradford; Brown; Buhl; Frerichs; Heineman (Phyllis); Johnston; Kirkeby; Lederman;
16 Maher; Monroe; Novstrup (Al); Olson (Russell); Rave; Rhoden; Soholt; Sutton; Tidemann;
17 Tieszen; Vehle; Welke; White

18 Nays:

19 Adelstein; Ewing; Holien; Hunhoff (Jean); Jensen; Jones; Lucas; Omdahl; Otten (Ernie); Peters;
20 Rampelberg

21 Excused:

22 Krebs; Van Gerpen

23 So the bill not having received an affirmative vote of a two-thirds majority of the members-
24 elect, the President declared the bill lost.

25 SB 28: FOR AN ACT ENTITLED, An Act to revise certain property tax levies for school
26 districts and to revise certain provisions regarding state aid to education.

27 Was read the second time.

28 28mf

29 Sen. Kirkeby moved that SB 28 be amended as follows:

1 On the Senate Appropriations Committee engrossed bill, delete all amendments, thus
2 restoring the bill to the printed version.

3 Sen Kirkeby requested a roll call vote.

4 Which request was supported.

5 The question being on Sen. Kirkeby's motion that SB 28 be amended.

6 And the roll being called:

7 Yeas 17, Nays 16, Excused 2, Absent 0

8 Yeas:

9 Begalka; Bradford; Buhl; Ewing; Frerichs; Jones; Kirkeby; Lederman; Lucas; Maher; Otten
10 (Ernie); Rampelberg; Rhoden; Sutton; Tieszen; Vehle; Welke

11 Nays:

12 Adelstein; Brown; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen; Johnston; Monroe;
13 Novstrup (Al); Olson (Russell); Omdahl; Peters; Rave; Soholt; Tidemann; White

14 Excused:

15 Krebs; Van Gerpen

16 So the motion having received an affirmative vote of a majority of the members present,
17 the President declared the motion carried.

18 28me

19 Sen. Adelstein moved that SB 28 be further amended as follows:

20 On page 1, between lines 3 and 4 of the Senate Appropriations Committee engrossed bill,
21 insert:

22 "Section 2. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 Notwithstanding the provisions of § 13-13-72.1, for property taxes payable in 2014, the
25 relationship of general fund school district levies set pursuant to § 10-12-42 for property
26 classified as agricultural property and owner-occupied single-family dwellings shall be
27 modified."

28 On page 1, line 12, delete "~~thirty-two eight and two~~" and insert "~~thirty-two and two~~ seventy-
29 four and nine".

1 On page 2, line 3, delete "four dollars and ~~two~~ twenty-seven and" and insert "~~four dollars~~
2 ~~and two and nine~~ three dollars and sixty and two".

3 On page 2, line 4, delete "nine".

4 Sen. Adelstein requested a roll call vote.

5 Which request was not supported.

6 The question now being on Sen. Adelstein's motion that SB 28 be further amended.

7 Which motion failed.

8 The question being "Shall SB 28 pass as amended?"

9 And the roll being called:

10 Yeas 29, Nays 4, Excused 2, Absent 0

11 Yeas:

12 Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Hunhoff (Jean); Jensen;
13 Johnston; Jones; Kirkeby; Lederman; Maher; Monroe; Novstrup (Al); Olson (Russell); Omdahl;
14 Otten (Ernie); Peters; Rave; Rhoden; Soholt; Sutton; Tidemann; Tieszen; Vehle; Welke; White

15 Nays:

16 Adelstein; Holien; Lucas; Rampelberg

17 Excused:

18 Krebs; Van Gerpen

19 So the bill having received an affirmative vote of a two-thirds majority of the members-
20 elect, the President declared the bill passed and the title was agreed to.

21 SB 15: FOR AN ACT ENTITLED, An Act to provide for expenditures for early learning
22 services from the special education fund.

23 Was read the second time.

24 15ch

25 Sen. Heineman moved that SB 15 be amended as follows:

26 On page 3, line 2, of the Senate Appropriations Committee engrossed bill, delete "section
27 16" and insert "section 1".

1 Which motion prevailed.

2 15ci

3 Sen. Rhoden moved that SB 15 be amended as follows:

4 On page 3, line 2, of the Senate Appropriations Committee engrossed bill, delete "16" and
5 insert "1".

6 On page 3, after line 4, insert:

7 "Section 6. That § 13-37-2.1 be amended to read as follows:

8 13-37-2.1. As used in this chapter, the term, surrogate parent, means any individual ~~certified~~
9 ~~by the Department of Education~~ assigned by the district to act in place of the parent of a child
10 in need of special education when the school district cannot identify or locate the parent or the
11 child is a ward of the state.

12 Section 7. That § 13-37-16 be amended to read as follows:

13 13-37-16. For taxes payable in ~~1997~~ 2014, and each year thereafter, the school board shall
14 levy no more than one dollar and ~~forty~~ fifty-five and two tenths cents per thousand dollars of
15 taxable valuation, as a special levy in addition to all other levies authorized by law for the
16 amount so determined to be necessary, and such levy shall be spread against all of the taxable
17 property of the district. The proceeds derived from such levy shall constitute a school district
18 special education fund of the district for the payment of costs for the special education of all
19 children in need of special education or special education and related services who reside within
20 the district pursuant to the provisions of §§ 13-37-8.2 to 13-37-8.10, inclusive. The levy in this
21 section shall be based on valuations such that the median level of assessment represents 85% of
22 market value as determined by the Department of Revenue. The total amount of taxes that would
23 be generated at the levy pursuant to this section shall be considered local effort. Money in the
24 special education fund may be expended for the purchase or lease of any assistive technology that
25 is directly related to special education and specified in a student's individualized education plan.
26 This section does not apply to real property improvements.

27 ~~—For taxes payable in 2011, the total amount of revenue payable from the levy provided in this~~
28 ~~section may not increase more than the lesser of three percent or the index factor, as defined in~~
29 ~~§ 10-13-38, over the maximum amount of revenue that could have been generated for the taxes~~
30 ~~payable in 2010. After applying the index factor, a school district may increase the revenue~~
31 ~~payable from taxes on real property above the limitations provided by this section by the~~
32 ~~percentage increase of value resulting from any improvements or change in use of real property,~~
33 ~~annexation, minor boundary changes, and any adjustments in taxation of real property separately~~
34 ~~classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,~~
35 ~~and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.~~

36 ~~—Any school district created or reorganized after January 1, 2009, is exempt from the~~
37 ~~limitation provided by this section for a period of two years immediately following its creation.~~

38 ~~—For taxes payable in 2012, 2013, 2014, and 2015, the total amount of revenue payable from~~
39 ~~the levy provided in this section may not increase more than the lesser of three percent or the~~
40 ~~index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have~~

1 ~~been generated for the taxes payable in 2010 plus any unused index factor from the previous~~
2 ~~years. After applying the index factor, a school district may increase the revenue payable from~~
3 ~~taxes on real property above the limitations provided by this section by the percentage increase~~
4 ~~of value resulting from any improvements or change in use of real property, annexation, minor~~
5 ~~boundary changes, and any adjustments in taxation of real property separately classified and~~
6 ~~subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,~~
7 ~~except § 10-6-31.4, only if assessed the same as property of equal value.~~

8 ~~—For taxes payable in 2011, 2012, 2013, 2014, and 2015, the levy limitation of one dollar and~~
9 ~~forty cents per thousand dollars of taxable valuation does not apply to any school district.~~

10 Section 8. That § 13-37-16.2 be amended to read as follows:

11 13-37-16.2. If local effort increases on a statewide aggregate basis by a greater percentage
12 than local need on a statewide aggregate basis from any one year to the next, for the following
13 year, the levy specified in subdivision ~~13-37-35.1(19)~~ 13-37-35.1(7) shall be reduced
14 proportionally so that the percentage increase in local effort on a statewide aggregate basis equals
15 the percentage increase in need on a statewide aggregate basis.

16 Section 9. That § 13-37-16.3 be amended to read as follows:

17 13-37-16.3. Any adjustments in the levy specified in subdivision ~~13-37-35.1(19)~~ 13-37-
18 35.1(7) made pursuant to § 13-37-16.2 shall be based on maintaining the relationship between
19 statewide local effort as a percentage of statewide local need in the fiscal year succeeding the
20 fiscal year in which the adjustment is made. However, for fiscal year 2014, and each year
21 thereafter, if the levy specified in subdivision 13-37-35.1(7) is not adjusted to maintain this
22 relationship, the funding allocation for each disability level as defined in § 13-37-35.1 shall be
23 reduced proportionally to maintain the relationship between statewide local effort as a percentage
24 of statewide local need.

25 Section 10. That § 13-37-18 be amended to read as follows:

26 13-37-18. Special education costs and statistical information shall be included in the annual
27 ~~application for state aid~~ financial report as provided in § 13-13-37.

28 Section 11. That § 13-37-35.1 be amended to read as follows:

29 13-37-35.1. Terms used in chapter 13-37 mean:

- 30 (1) "Level one disability," a mild disability;
- 31 (2) "Level two disability," cognitive disability or emotional disorder;
- 32 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-
33 blindness, orthopedic impairment, or traumatic brain injury;
- 34 (4) "Level four disability," autism;
- 35 (5) "Level five disability," multiple disabilities;
- 36 (5A) "Level six disability," prolonged assistance;
- 37 (6) "Index factor," is the annual percentage change in the consumer price index for urban
38 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
39 the United States Department of Labor for the year before the year immediately
40 preceding the year of adjustment or three percent, whichever is less;

- (7) "Local effort," shall be calculated for taxes payable in 2011 and shall be the amount of revenue that could have been generated for the taxes payable in 2010 using a special education levy of one dollar and twenty cents per one thousand dollars of valuation increased by the lesser of three percent or the index factor, as defined in § 10-13-38, plus a percentage increase of value resulting from any improvements or change in use of real property, annexation, minor boundary changes, and any adjustments in taxation of real property separately classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.
- For taxes payable in 2012, 2013, 2014, and 2015, the total amount of local effort shall be increased by the lesser of three percent or the index factor, established pursuant to § 10-13-38 plus a percentage increase of value resulting from any improvements or change in use of real property, annexation, minor boundary changes, and any adjustments in taxation of real property separately classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value 2014 and thereafter using a special education levy of one dollar and thirty-five and two tenths cents per one thousand dollars of valuation;
- (8) "Allocation for a student with a level one disability," for the school fiscal year beginning July 1, 2012, is \$4,525. For each school year thereafter, the allocation for a student with a level one disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (9) "Allocation for a student with a level two disability," for the school fiscal year beginning July 1, 2012, is \$11,124. For each school year thereafter, the allocation for a student with a level two disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (10) "Allocation for a student with a level three disability," for the school fiscal year beginning July 1, 2012, is \$14,788. For each school year thereafter, the allocation for a student with a level three disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (11) "Allocation for a student with a level four disability," for the school fiscal year beginning July 1, 2012, is \$13,204. For each school year thereafter, the allocation for a student with a level four disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (12) "Allocation for a student with a level five disability," for the school fiscal year beginning July 1, 2012, is \$19,993. For each school year thereafter, the allocation for a student with a level five disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (12A) "Allocation for a student with a level six disability," for the school fiscal year beginning July 1, 2012, is \$7,205. For each school year thereafter, the allocation for a student with a level six disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (13) "Child count," is the number of students in need of special education or special education and related services according to criteria set forth in rules promulgated pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in accordance with rules promulgated pursuant to § 13-37-1.1;
- (14) "Fall enrollment," the number of kindergarten through twelfth grade pupils enrolled in all schools operated by the school district on the last Friday of September of the

- 1 previous school year minus the number of students for whom the district receives
2 tuition, except any nonresident student who is in the care and custody of a state
3 agency and is attending a public school and any student for whom tuition is being paid
4 pursuant to § 13-28-42.1, plus the number of students for whom the district pays
5 tuition;
- 6 (15) "Nonpublic school," a sectarian organization or entity which is accredited by the
7 secretary of education for the purpose of instructing children of compulsory school
8 age. This definition excludes any school that receives a majority of its revenues from
9 public funds;
- 10 (16) "Nonpublic fall enrollment," until June 30, 2008, the number of children under age
11 sixteen, and beginning July 1, 2009, the number of children under age eighteen, who
12 are approved for alternative instruction pursuant to § 13-27-2 on the last Friday of
13 September of the previous school year plus:
- 14 (a) For nonpublic schools located within the boundaries of a public school district
15 with a fall enrollment of six hundred or more on the last Friday of September
16 of the previous school year, the number of kindergarten through twelfth grade
17 pupils enrolled on the last Friday of September of the previous regular school
18 year in all nonpublic schools located within the boundaries of the public school
19 district;
- 20 (b) For nonpublic schools located within the boundaries of a public school district
21 with a fall enrollment of less than six hundred on the last Friday of September
22 of the previous school year, the number of resident kindergarten through
23 twelfth grade pupils enrolled on the last Friday of September of the previous
24 school year in all nonpublic schools located within the State of South Dakota;
- 25 (17) "Special education fall enrollment," fall enrollment plus nonpublic fall enrollment;
- 26 (18) "Local need," an amount to be determined as follows:
- 27 (a) Multiply the special education fall enrollment by 0.1004 and multiply the result
28 by the allocation for a student with a level one disability;
- 29 (b) Multiply the number of students having a level two disability as reported on the
30 child count for the previous school fiscal year by the allocation for a student
31 with a level two disability;
- 32 (c) Multiply the number of students having a level three disability as reported on
33 the child count for the previous school fiscal year by the allocation for a student
34 with a level three disability;
- 35 (d) Multiply the number of students having a level four disability as reported on
36 the child count for the previous school fiscal year by the allocation for a student
37 with a level four disability;
- 38 (e) Multiply the number of students having a level five disability as reported on the
39 child count for the previous school fiscal year by the allocation for a student
40 with a level five disability;
- 41 (f) Multiply the number of students having a level six disability as reported on the
42 child count for the previous school fiscal year by the allocation for a student
43 with a level six disability;
- 44 (g) When calculating local need at the statewide level, include the amount set aside
45 for extraordinary costs defined in § 13-37-40;
- 46 (h) Sum the results of (a) through (f) to (g), inclusive;
- 47 (19) ~~"Effort factor," for taxes payable in 2011, 2012, 2013, 2014, and 2015, the effort~~
48 ~~factor is the amount of taxes payable for the year divided by the amount of local effort~~

~~as calculated in subdivision (7) the school district's special education tax levy in dollars per thousand divided by \$1.352. The maximum effort factor is 1.0.~~

Section 12. That § 13-37-36.1 be amended to read as follows:

13-37-36.1. To establish the school district special education fund statutory carryover ~~excluding federal funds, the following calculations shall be performed:~~

~~—(1) Divide the total federal special education revenue by the total special education revenues; and~~

~~—(2) Multiply the federal special education percentage calculated in (1) times the total special education fund balance; and~~

~~—(3) Deduct the amount of federal revenue calculated in (2) from the special education fund balance, deduct from the total ending fund balance the amount of Title VIII of the Elementary and Secondary Education Act funds receipted or transferred to the special education fund.~~

Section 13. That § 13-37-40 be amended to read as follows:

13-37-40. Subject to the limitation in § 13-37-42, the secretary of the Department of Education shall, for school fiscal year ~~1999~~ 2014 and each year thereafter, set aside ~~5.75%~~ four million dollars of the state ~~aid to districts for~~ special education appropriation for extraordinary expenses incurred in providing special education programs or services to one or more children with disabilities, with expenditures to be made as recommended by an oversight board and approved by the secretary of the Department of Education. Any funds not expended or obligated pursuant to this section shall not be subject to reversion pursuant to § 4-8-19. ~~The maximum amount not subject to reversion is equal to 5.75% of the state special education appropriation. The total amount set aside for extraordinary expenses each fiscal year plus the total amount not reverted from previous fiscal years may not exceed five million five hundred thousand dollars.~~

The amount appropriated for extraordinary expenses shall be recalculated at the same time as the amount of the allocations for disability levels as provided in § 13-37-35.2.

Section 14. That § 13-37-40.1 be amended to read as follows:

13-37-40.1. A school district is not eligible for funding from the money set aside in §§ 13-37-38 to 13-37-40, inclusive, unless the school district certifies to the secretary of education that its ending special education fund balance will not exceed ~~five~~ ten percent of its special education expenditures for the current fiscal year.

Section 15. That § 13-37-44 be amended to read as follows:

13-37-44. A school district's state aid for special education as calculated pursuant to § 13-37-36.1 ~~or 13-37-51~~ shall be reduced by the amount which its ending special education fund balance exceeds ~~twenty~~ twenty-five percent of its special education expenditures for the prior fiscal year or ~~fifty one hundred~~ thousand dollars, whichever is greater, if the school district did not receive money set aside in § 13-37-40 during the prior fiscal year; or the amount which its ending special education fund balance exceeds ~~five~~ ten percent of its special education expenditures for the prior fiscal year if the school district received money set aside in §§ 13-37-38 to 13-37-40, inclusive, during the prior fiscal year.

1 Section 16. That § 13-37-48.1 be repealed.

2 ~~—13-37-48.1. In addition to the purposes specified in § 13-37-40, money set aside pursuant to~~
3 ~~§ 13-37-40 may be used by the Department of Education to establish and maintain a program to~~
4 ~~assist school districts with legal matters relating to special education, to employ personnel to~~
5 ~~audit school districts for compliance with the provisions of §§ 13-37-36.1 to 13-37-52, to~~
6 ~~establish and maintain state protocols to assist school districts in developing individualized~~
7 ~~education plans, to support activities under Part C of the Individuals with Disabilities Education~~
8 ~~Act, Infants and Toddlers with Disabilities, or to purchase assistive technology for students with~~
9 ~~a level two, three, four, or five disability.~~

10 ~~—Any approved K-12 application under the extraordinary cost fund must be funded prior to~~
11 ~~funding the Part C requests.~~

12 Section 17. That § 13-37-51 be repealed.

13 ~~—13-37-51. For the transition period from school fiscal year 2000 through school fiscal year~~
14 ~~2003, state aid for special education shall be determined according to the following calculations:~~

15 ~~—(1) Multiply local need of a school district by 0.96 in school fiscal year 2000, 0.97 in~~
16 ~~school fiscal year 2001, 0.98 in school fiscal year 2002, and 0.99 in school fiscal year~~
17 ~~2003;~~

18 ~~—(2) After making the adjustment to local need pursuant to subdivision (1) of this section,~~
19 ~~calculate state aid for special education pursuant to § 13-37-36.1;~~

20 ~~—(3) Subtract the result of subdivision (2) from the amount of state aid received pursuant~~
21 ~~to § 13-37-36.3 or 13-37-43 in school fiscal year 1999;~~

22 ~~—(4) Multiply the result of subdivision (3) by 0.80 in school fiscal year 2000, 0.60 in~~
23 ~~school fiscal year 2001, 0.40 in school fiscal year 2002, and 0.20 in school fiscal year~~
24 ~~2003;~~

25 ~~—(5) Add the result of subdivision (2) to the result of subdivision (4);~~

26 ~~—(6) State aid for special education is the greater of the result of subdivision (2) or the~~
27 ~~result of subdivision (5).~~

28 Section 18. That § 13-37-53 be repealed.

29 ~~—13-37-53. If the parents or guardian of a child assigned to and enrolled in an out-of-district~~
30 ~~special education residential or tuition day program move to another South Dakota school district~~
31 ~~and that school district provides special education services to the child, the Department of~~
32 ~~Education shall allocate any state aid to special education attributable to the child received or~~
33 ~~scheduled to be received by the resident school district as defined by § 13-28-9.1 to the school~~
34 ~~district to which the parents or guardian have moved for the period of time that the resident~~
35 ~~school district is not providing special education services to the child. For the purposes of §§ 13-~~
36 ~~28-9.1 and 13-37-54, an approved special education program includes out-of-district residential~~
37 ~~programs and tuition day programs.~~

38 Section 19. That § 13-37-54 be amended to read as follows:

39 13-37-54. The Department of Education may promulgate rules pursuant to chapter 1-26 to
40 provide for the reallocation of state aid to special education as provided for in §§ § 13-28-9.1 and
41 13-37-53.

1 Section 20. That § 13-16-7.1 be amended to read as follows:

2 13-16-7.1. For taxes payable in ~~2011, 2012, 2013,~~ 2014; and 2015, the provisions of §§ 13-
3 10-6; and 13-16-7; ~~13-37-16, and 13-37-35.1~~ that limit the maximum amount of revenue that
4 may be generated by the pension; and capital outlay; ~~and special education~~ tax levies do not
5 apply to any school district that has less than a ten percent change in the total taxable valuation
6 from the previous year of all real property in the school district, not including the increase of
7 value resulting from any improvements or change in use of real property."

8 Which motion prevailed.

9 The question being "Shall SB 15 pass as amended?"

10 And the roll being called:

11 Yeas 24, Nays 9, Excused 2, Absent 0

12 Yeas:

13 Adelstein; Begalka; Brown; Ewing; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen;
14 Johnston; Kirkeby; Lederman; Maher; Monroe; Novstrup (Al); Olson (Russell); Omdahl; Otten
15 (Ernie); Peters; Rave; Sohlt; Tidemann; Tieszen; Vehle; White

16 Nays:

17 Bradford; Buhl; Frerichs; Jones; Lucas; Rampelberg; Rhoden; Sutton; Welke

18 Excused:

19 Krebs; Van Gerpen

20 So the bill having received an affirmative vote of a two-thirds majority of the members-
21 elect, the President declared the bill passed and the title was agreed to.

22 Sen. Olson moved that HB 1019, 1020, 1091, 1011, 1071, 1072, 1073, 1074, 1125, 1127,
23 1070, 1035, 1153, 1069, 1163, 1001, 1002, 1003, and 1004 be deferred to Thursday, February
24 21, the 27th legislative day.

25 Which motion prevailed.

26 SIGNING OF BILLS

27 The President publicly read the title to

28 HB 1034: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
29 procedure for setting petroleum examination and testing specifications and methods.

1 HB 1023: FOR AN ACT ENTITLED, An Act to revise certain rules relating to the
2 Department of Human Services Medicaid waiver programs.

3 HB 1169: FOR AN ACT ENTITLED, An Act to amend the provisions regarding the
4 reimbursement of a physical exam of a victim after a rape.

5 And signed the same in the presence of the Senate.

6 **COMMEMORATION**

7 SC 14 Introduced by: Senators Johnston, Adelstein, Begalka, Bradford, Brown, Buhl,
8 Ewing, Frerichs, Heineman (Phyllis), Holien, Hunhoff (Jean), Jones, Kirkeby, Krebs, Lederman,
9 Lucas, Maher, Monroe, Novstrup (Al), Olson (Russell), Omdahl, Otten (Ernie), Peters,
10 Rampelberg, Rave, Rhoden, Soholt, Sutton, Tidemann, Tieszen, Van Gerpen, Vehle, Welke, and
11 White and Representatives Bartling, Bolin, Cammack, Campbell, Carson, Conzet, Craig, Cronin,
12 Dryden, Duvall, Ecklund, Erickson, Feickert, Feinstein, Gibson, Gosch, Greenfield, Haggar
13 (Don), Haggar (Jenna), Hajek, Hansen, Hawks, Hawley, Heinemann (Leslie), Heinert, Hickey,
14 Hoffman, Hunhoff (Bernie), Johns, Kaiser, Killer, Kirschman, Kopp, Latterell, Lust, Magstadt,
15 May, Mickelson, Miller, Munsterman, Nelson, Novstrup (David), Olson (Betty), Otten
16 (Herman), Parsley, Peterson, Qualm, Rasmussen, Ring, Romkema, Rounds, Rozum, Russell,
17 Schaefer, Schoenfish, Schrempp, Sly, Soli, Solum, Stalzer, Steele, Stevens, Tulson, Tyler,
18 Verchio, Werner, Westra, Wick, Wink, and Wismer

19 A LEGISLATIVE COMMEMORATION, honoring Molly Hermann of Sturgis, South Dakota
20 Girls State Governor and Ty Wiley of Sioux Falls, South Dakota Boys State Governor; and
21 commending the South Dakota American Legion and Auxiliary for their sponsorship and
22 coordination of the Girls State and Boys State programs.

23 WHEREAS, Molly Hermann and Ty Wiley have been selected and are serving in these high
24 offices and are outstanding young South Dakota leaders; and

25 WHEREAS, the goals of Boys State and Girls State are to help youth understand and
26 appreciate the American system of government and way of life, including the rights and
27 responsibilities of citizenship; and to give better knowledge of the fundamental principles of
28 government within the State of South Dakota through unique learn-by-doing workshops; and

29 WHEREAS, the South Dakota American Legion and Auxiliary have worked diligently for
30 more than the last seventy years in conducting these fine programs:

31 NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-Eighth Legislature of the
32 State of South Dakota, that Molly Hermann and Ty Wiley be congratulated for their outstanding
33 achievement; that appreciation be extended to those adults who donate time and energy to the
34 program; and that the South Dakota American Legion and Auxiliary be recognized for their
35 many years of sponsoring and conducting Boys and Girls State.

1 Sen. Rave moved that the Senate do now adjourn, which motion prevailed and at 8:19 p.m.
2 the Senate adjourned.

3
Jeannette Schipper, Secretary